

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CASE NO. 5:05CV273-3-MU

JAMES FRANKLIN MCCLELLAND)
(0264591))
Plaintiff,)
v.)
JOSEPH HARRIS, et al)
Defendants.)

**ORDER WAIVING INITIAL PARTIAL FILING FEE
AND
DIRECTING THE CORRECTIONAL FACILITY TO TRANSMIT PARTIAL PAYMENTS**

The court has received the civil rights complaint in the above-captioned action. Federal law requires the plaintiff to pay a filing fee of \$ 250.00 for this action. The inmate trust fund account for this plaintiff shows that six months prior to submission of this complaint, the plaintiff accrued an income of \$0.00 and that at the present, the plaintiff has no funds or inadequate funds available from which to assess an initial partial filing fee.

Therefore, the payment of an initial partial filing fee is waived. However, the plaintiff is still liable for the full filing fee and is directed to pay this fee by monthly payments in accordance with this order.

In accordance with 28 U.S.C. §1915(b)(2), the correctional facility at which the plaintiff is incarcerated is required to deduct monthly payments of 20% of the preceding month's income credited to the plaintiff's trust fund account each time the amount in the account exceeds \$10.00. These monthly payments are to be sent to the Clerk of Court for the United States District Court for the Western District of North Carolina until the statutory fee of \$ 250.00 is paid in full.

IT IS THEREFORE ORDERED THAT:

1. The payment of an initial partial filing fee is waived.
2. The correctional facility at which the plaintiff is incarcerated shall withhold on a continuing basis each month 20% of the deposits made into the plaintiff's trust account as the deposits are made. At the end of each monthly withholding period, plaintiff's custodian shall pay the total amount withheld that month to the Clerk, U.S. District Court, so long as the amount then in the prisoner's trust account exceeds \$10.00. If the total funds in the plaintiff's trust account do not exceed \$10.00, the amount withheld shall be accumulated and paid to the Clerk with the amount withheld during the next month. Said payment shall be clearly identified by plaintiff's name and case number assigned to this action.
3. In the event the plaintiff is transferred to a different correctional facility, the financial responsibility shall be transferred with the inmate to the new correctional facility.
4. The mailing address for all payments is:

United States District Court
Room 210 - Pro Se Division
401 West Trade Street
Charlotte, North Carolina 28202

Make check(s) payable to "Clerk, U.S. District Court".
5. This order is to be served on the correctional facility at which the plaintiff is incarcerated as determined by the plaintiff's pleadings, served on the plaintiff; and served on all parties of record.

Signed: January 5, 2006

Frank G. Johns

Frank G. Johns, Clerk
United States District Court

